

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL ACTION NO. 1:12-CV-323-GCM-DCK**

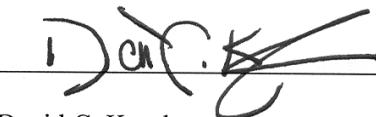
KELVIN J. IRIONS,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
CAROLYN W. COLVIN,)	
Acting Commissioner of Social Security,)	
)	
Defendant.)	
)	

THIS MATTER IS BEFORE THE COURT on Plaintiff's "Motion For Entry Of Order Accepting The Plaintiff's Application For Attorney's Fees Under EAJA" (Document No. 17) filed October 3, 2013. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion, the record, and applicable authority, the undersigned will deny the motion without prejudice.

By the instant motion, Plaintiff's counsel seeks an award of attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d). As noted by Plaintiff in explaining his failure to satisfy the requirement of consultation pursuant to Local Rule 7.1(B), it appears likely that Defendant's counsel is unable to confer, or respond, regarding the instant motion at this time. (Document No. 17, p.1). As such, the undersigned will deny the motion without prejudice, pending Defendant's counsel's availability to consent or otherwise file a response to the pending motion. Plaintiff may re-file his motion after proper consultation with Defendant's counsel.

IT IS, THEREFORE, ORDERED that Plaintiff's "Motion For Entry Of Order Accepting The Plaintiff's Application For Attorney's Fees Under EAJA" (Document No. 17) is **DENIED WITHOUT PREJUDICE.**

Signed: October 3, 2013



David C. Keesler
United States Magistrate Judge
